HON'BLE SRI JUSTICE GHULAM MOHAMMED

C.M.A.No.661 of 2005

Between

G.B. Balakrishna and anothers

v.

B. Balakrishna Reddy and another

THE HON'BLE SRI JUSTICE GHULAM MOHAMMED

C.M.A.No.661 of 2005

JUDGMENT:

1) The claimants filed this appeal under Section 173 of the Motor Vehicles Act, dissatisfied with the compensation awarded by the Tribunal in O.P.No.2419 of 2001 in its order dated 23-12-2004 for the death of deceased in the accident that occurred on 31-20-2001.

2) The facts in nutshell are that the deceased and others were travelling in an auto bearing No.AP-10U-4796 and they were proceeding to Secunderabad and that the driver

of the said Auto driving the same slowly on the extreme left side of the road, that at that time the driver of DCM Tayota van bearing No.AP-9U-1134 drove it with high speed, rashly and negligently and dashed the auto from behind, due to the sudden impact, the deceased fell down and sustained fatal injuries and lost consciousness and succumbed to the injuries on the way to the Gandhi Hospital, Secunderabad. The claimant no.1 is the husband of the deceased and claimant no.2 is the son of the deceased and they filed the above claim petition seeking compensation of Rs.3,00,000/- for the death of the deceased.

3) Before the Tribunal the owner of the DCM Tayota remained ex-parte, the respondent no.2 filed its counter denying the averments of the claim petition. The Tribunal after framing necessary issues and considering the evidence of PWs 1 and 2 and Exs.A-1 to A-5 on behalf of the claimants, and in the absence of any rebuttal evidence by the respondents therein, except marking Ex.B.1 copy of the policy, by applying the principle of res-ipsa liquitur, rightly so, held that the accident occurred due to rash and negligent driving of the driver of the DCM Tayota van, and awarded compensation of Rs.1,00,000/-. Dissatisfied with the quantum of compensation, the claimants preferred this appeal.

4) Heard learned counsel appearing on both sides and perused the record.

5) Learned counsel for the appellants- claimants contended that the deceased was doing tailoring work and used to earn Rs.4000/- per month, and that the Tribunal did not apply the proper multiplication method for awarding the just compensation. On the other hand, learned standing counsel supported the impugned order.

6) In the instant case, it is not in dispute that the deceased was aged about 45 years at the time of accident as per Postmortem Report Ex.A.4. Considering the submission that the deceased used to do tailoring work prior to her death, an amount of Rs.3000/- can be taken as monthly income of the deceased notionally, out of which if 1/3rd of

the amount is deducted towards personal expenses, by applying the multiplier of 14 for the age of 45 years, as per the judgment of the Supreme Court in SARLA VERMA v. DELHI TRANSPORT CORPORATION (2009 (6) SCC 121), the loss of dependency comes to Rs3,36,0000/- (i.e. Rs.2000 x 12 x 14), The claimants are entitled for an amount Rs.20,000/- towards loss of consortium and loss of estate. However, since the claim petition itself is filed for total amount of Rs.3,00,000/- the appeal is allowed granting a sum of Rs.3,00,000/- as compensation for the death of the deceased. The enhanced amount shall carry interest @ 7% per annum from the date of petition till realisation. No costs.

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GHULAM MOHAMMED, J.

10-12-2010

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HON'BLE SRI JUSTICE GHULAM MOHAMMED

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Dt 10-12-2010